



February 14, 2007

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## HOUSE BILL No. 1287

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DIGEST OF HB 1287 (Updated February 12, 2007 5:15 pm - DI 107)

**Citations Affected:** IC 33-28; IC 33-29; IC 33-33; IC 33-37; IC 34-35; IC 35-34; IC 35-36; IC 35-41; IC 35-47.

**Synopsis:** Jury selection. Consolidates provisions concerning jury selection into one chapter of the Indiana Code that conforms to jury selection rules adopted by the Indiana supreme court. Repeals provisions outside this chapter concerning jury selection. Provides that if a county, city or town fiscal body adopts an ordinance for the payment of juror parking fees, the county, city or town may pay the parking fees incurred by a juror instead of paying for mileage. Allows a county to use unencumbered money in a jury pay fund to maintain and improve the jury system in the county. Makes other conforming amendments.

**Effective:** July 1, 2007.

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**Richardson, Dvorak, Grubb, Koch**

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January 11, 2007, read first time and referred to Committee on Judiciary.  
February 13, 2007, amended, reported — Do Pass.

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HB 1287—LS 6636/DI 69+



February 14, 2007

First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

## HOUSE BILL No. 1287

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 33-28-5-1 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) As used in this  
3 chapter, "courts" means the circuit and superior courts of a county that  
4 choose to follow the procedure for jury selection and service set out in  
5 this chapter: **courts that conduct jury trials.**

6 **(b) The term does not include a city or town court established in**  
7 **IC 33-35.**

8 SECTION 2. IC 33-28-5-2 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. As used in this  
10 chapter, "juror qualification form" means the form prescribed for use  
11 by the courts and **mailed delivered** to each prospective juror. ~~or an~~  
12 ~~electronic data processing facsimile of the form that may be created on~~  
13 ~~magnetic tape, punched cards, or computer discs.~~

14 SECTION 3. IC 33-28-5-3 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. As used in this  
16 chapter, "jury commissioner" **administrator** means the court  
17 administrator, ~~or the county clerk, of the court and includes a deputy~~

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1 court administrator designated by the jury commissioner periodically  
 2 to act in the jury commissioner's place. **or other clerical personnel**  
 3 **appointed by a supervising judge to administer the jury assembly**  
 4 **process.**

5 SECTION 4. IC 33-28-5-3.5 IS ADDED TO THE INDIANA CODE  
 6 A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1,**  
 7 **2007]: Sec. 3.5. As used in this chapter, "jury pool" means the**  
 8 **names or identifying numbers of prospective jurors drawn at**  
 9 **random from the master list.**

10 SECTION 5. IC 33-28-5-5, AS AMENDED BY P.L.80-2006,  
 11 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 12 JULY 1, 2007]: Sec. 5. As used in this chapter, "master list" means

- 13 (1) a serially printed list;
- 14 (2) a magnetic tape;
- 15 (3) an Addressograph file;
- 16 (4) a punched card file;
- 17 (5) a computer record; or
- 18 (6) ~~another~~ a form of record determined by the supervising judge
- 19 ~~to be consistent with this chapter;~~

20 that fosters the policy and protects the rights secured by this chapter  
 21 ~~and~~ contains the current lists approved by the supreme court that may  
 22 be used to select prospective jurors.

23 SECTION 6. IC 33-28-5-7 IS AMENDED TO READ AS  
 24 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 7. As used in this  
 25 chapter, "supervising judge" means a judge of the courts ~~who is~~  
 26 ~~designated by the judges of the courts~~ to supervise the jury ~~selection~~  
 27 ~~assembly~~ process.

28 SECTION 7. IC 33-28-5-9 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 9. The jury  
 30 ~~commissioner and supervising judge under the plan required by section~~  
 31 ~~13 of this chapter shall~~ **assembly process must** provide a uniform  
 32 system of jury selection for the courts ensuring that:

- 33 (1) persons selected for jury service are selected at random from
- 34 a fair cross-section of the population of the area served by the
- 35 courts; and
- 36 (2) qualified citizens have the opportunity under this chapter to:
- 37 (A) be considered for jury service in the county; and
- 38 (B) fulfill their obligation to serve as jurors when summoned
- 39 for that purpose.

40 SECTION 8. IC 33-28-5-10 IS AMENDED TO READ AS  
 41 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 10. ~~(a) The supervising~~  
 42 ~~judge is responsible for the selection of jurors as prescribed by this~~

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1 ~~section.~~

2 ~~(b)~~ (a) The supervising judge may authorize use of a computerized  
3 jury selection system under this chapter.

4 ~~(c)~~ (b) A system authorized under subsection ~~(b)~~ (a) must be fair  
5 and may not violate the rights of persons with respect to provide for  
6 the impartial and random selection of prospective jurors. Jurors  
7 selected under a computerized selection system must be eligible for  
8 selection under this chapter.

9 SECTION 9. IC 33-28-5-12 IS AMENDED TO READ AS  
10 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 12. (a) Under the  
11 supervision of the supervising judge, the jury ~~commissioner~~  
12 **administrator** shall prepare a written plan for the selection of grand  
13 and petit jurors in the county. The plan must be designed to achieve the  
14 objectives of ~~and otherwise comply with~~ this chapter. The plan must  
15 specify the following:

16 (1) Source of names for the master list.

17 (2) Form of the master list.

18 (3) Method of selecting names from the master list.

19 (4) ~~Forms of and method~~ **Methods** for maintaining records of  
20 names drawn, jurors qualified, and ~~juror's excuses~~ **jurors'**  
21 **deferrals** and reasons to be ~~excused~~ **deferred, including**  
22 **specifying any necessary forms.**

23 (5) Method of drawing names of qualified jurors for prospective  
24 service.

25 (6) Procedures to be followed by prospective jurors in requesting  
26 to be ~~excused~~ **deferred** from jury service.

27 (7) Number of petit jurors that constitutes a panel for civil and  
28 criminal cases or a description of the uniform manner in which  
29 this determination is made.

30 (8) **That upon receipt of an order for a grand jury, the jury**  
31 **administrator shall publicly, and in accordance with section**  
32 **20 of this chapter, draw at random from the jury pool twelve**  
33 **(12) qualified jurors and direct them to appear before the**  
34 **supervising judge. The supervising judge shall randomly**  
35 **select six (6) jurors after:**

36 (A) **explaining to the twelve (12) prospective jurors the**  
37 **duties and responsibilities of a grand jury; and**

38 (B) **deferring jurors under section 18 of this chapter.**

39 (b) The plan must be ~~placed into operation after approval by~~  
40 **submitted by the jury administrator to the judges of the courts.** The  
41 judges of the courts shall ~~examine~~ **approve or direct modification of**  
42 the plan ~~to determine whether it complies with this chapter; not later~~

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1 **than sixty (60) days after its receipt.** If the plan is found not to  
 2 comply, the court shall order the jury ~~commissioner~~ **administrator** to  
 3 make the necessary changes to bring the plan into compliance. **The**  
 4 **approved plan must go into effect not later than sixty (60) days**  
 5 **after the plan is approved by the judges of the courts.**

6 (c) The plan may be modified at any time according to the  
 7 procedure specified under this chapter.

8 (d) ~~The plan must be submitted by the jury commissioner to the~~  
 9 ~~judges of the courts. The judges of the courts shall approve or direct~~  
 10 ~~modification of the plan not later than sixty (60) days after its receipt.~~  
 11 ~~The approved plan must go into effect not later than sixty (60) days~~  
 12 ~~after approval by the judges of the courts.~~

13 (e) ~~(d)~~ The plan is a public document on file in the office of the jury  
 14 ~~commissioner~~ **administrator** and must be available for inspection at  
 15 all reasonable times.

16 SECTION 10. IC 33-28-5-13, AS AMENDED BY P.L.80-2006,  
 17 SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 18 JULY 1, 2007]: Sec. 13. (a) The jury ~~commissioner~~ **administrator**  
 19 shall compile and maintain a master list consisting of lists approved by  
 20 the supreme court that may be used to select prospective jurors. In  
 21 compiling the master list, the jury ~~commissioner~~ **administrator** shall  
 22 **make a reasonable effort to** avoid duplication of names.

23 (b) A person who has custody, possession, or control of any of the  
 24 lists making up or used in compiling the master list shall furnish the  
 25 master list to the jury ~~commissioner~~ **administrator** for inspection,  
 26 reproduction, and copying at all reasonable times.

27 (c) When a copy of a list maintained by a public official is  
 28 furnished, only the actual cost of the copy may be charged to the courts.

29 (d) The master list of names is open to the public for examination  
 30 as a public record. However, ~~the source of names and any all other~~  
 31 ~~information other than the names contained in the source master list~~  
 32 ~~is confidential.~~

33 SECTION 11. IC 33-28-5-14 IS AMENDED TO READ AS  
 34 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) Names must be  
 35 drawn for juror service quarterly, **the jury pool at least one (1) time**  
 36 **each year** based on a calendar year commencing in January. ~~A public~~  
 37 ~~Drawing of names for the next quarter first jury pool for a calendar~~  
 38 ~~year must be held during the first week of the second month of the last~~  
 39 ~~quarter next of the calendar year preceding that the calendar year~~  
 40 ~~for which names are being drawn, at a time and place prescribed by the~~  
 41 ~~jury commissioner.~~ **administrator.**

42 (b) The jury commissioner shall create and file an alphabetical list

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of names drawn under this section. The alphabetical list may be in the form of a serial listing or discreet records (such as punched cards, addressograph plates, or computer records) filed together to constitute the alphabetical list. Names may not be added to the alphabetical list, except by order of the court. The names drawn on any list compiled from the alphabetical list may not be disclosed to any person other than under this chapter or by order of the supervising judge.

(b) The number of names required to be drawn each quarter from the jury pool for jury service must be determined by the jury commissioner administrator after consultation with all judges of the courts who may conduct jury trials, during the quarter, taking into consideration the number of jurors required for the grand jury.

(c) The frequency of the drawing of names to be summoned for jury service may be increased by the jury commissioner administrator if the jury commissioner administrator determines it necessary for purposes of fairness, efficiency, or to ensure compliance with this chapter.

(d) Names to be summoned for jury service must be drawn randomly under section 20 of this chapter.

(e) Except by order of the supervising judge, names drawn from the master list jury pool to be summoned for jury service may not be returned to the master list jury pool until all nonexempt persons on in the master list jury pool have been called.

(f) This section shall be construed liberally, to the effect that:

(1) an indictment may not be quashed; and

(2) a trial, a judgment, an order, or a proceeding may not be reversed or held invalid;

on the ground that the terms of this section have not been followed, unless it appears that the noncompliance was either in bad faith or was objected to promptly upon discovery and was probably harmful to the substantial rights of the objecting party.

SECTION 12. IC 33-28-5-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 16. (a) Not later than seven (7) days after the date of the drawing of names of persons to be notified of jury service from the master list, jury pool, the jury commissioner administrator shall mail provide a juror qualification form to each person whose name who is drawn a juror qualification form. notified to appear for jury service. The qualification form must be accompanied by instructions to fill out and return the qualification form by mail to the jury commissioner not later than ten (10) days after its receipt. administrator within a specified period. The instructions must state that requests for excuse advise prospective

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jurors of the procedure for requesting a deferral from jury service. during the next jury term should accompany the return of the qualification form.

(b) The juror qualification form must be designed by the jury commissioner and subject to approval by the judges of the courts as to matters of content and must elicit

(1) the prospective juror's name, address, and age; and

(2) whether the prospective juror:

(A) (1) is a citizen of the United States; and

(2) is at least eighteen (18) years of age;

(3) is a resident of the summoning county;

(B) (4) is able to read, speak, and understand the English language;

(C) has (5) is not suffering from any physical or mental disability impairing the person's capacity to render that prevents the person from rendering satisfactory jury service; or

(6) is not under a guardianship because of mental incapacity;

(D) (7) has not had rights the right to vote revoked by reason of a felony conviction, and not unless the right to vote has been restored; or

(8) is a law enforcement officer.

The juror qualification form must contain the prospective juror's declaration, **under oath or affirmation**, that the responses are true to the best of the prospective juror's knowledge. Notarization of the juror qualification form is not required.

(c) If a prospective juror is unable to fill out the form, another person may fill out the form for the prospective juror. If the form is completed by a person other than a prospective juror, the form must indicate that another person has done so and the reason for doing so.

(d) If it appears there is an omission, ambiguity, or error in a returned form, the jury commissioner **administrator** shall resend the form, instructing the prospective juror to make the necessary addition, clarification, or correction and to return the form to the jury commissioner not later than ten (10) days after its second receipt.

(e) A prospective juror who fails to return a completed juror qualification form as instructed must be directed by the jury commissioner to immediately appear before the jury commissioner to fill out a juror qualification form.

(f) When a prospective juror appears for jury service, or when there is an official conversation with the supervising judge or jury commissioner, a prospective juror may be required to fill out another juror qualification form in the presence of the supervising judge or jury

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commissioner. At this time, the prospective juror may be questioned, but only with regard to responses to questions contained on the form and grounds for the prospective juror's excuse or disqualification. Information acquired under this subsection by the supervising judge or jury commissioner must be noted on the juror qualification form: **administrator within a specified period.**

SECTION 13. IC 33-28-5-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. (a) ~~A prospective juror who fails to appear as directed by the jury commissioner under section 16 of this chapter must be ordered by the supervising judge to appear and show cause for the failure to appear as directed. If the a prospective juror fails to appear under the supervising judge's order or fails to show good cause for the failure to appear as directed by the jury commissioner, administrator, the prospective juror is guilty of subject~~ **to criminal contempt.**

(b) A person who knowingly misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror commits a Class C misdemeanor.

SECTION 14. IC 33-28-5-18, AS AMENDED BY P.L.4-2006, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 18. (a) The supervising judge or the jury commissioner **administrator** shall determine ~~solely on the basis of information provided on a juror qualification form or interview with a prospective juror whether the a prospective juror is disqualified for jury service: qualified to serve or, if disabled but otherwise qualified, whether the prospective juror could serve with reasonable accommodation. A person who is not eligible for jury service may not serve. The facts supporting juror disqualification or exemption must be recorded under oath or affirmation. A disqualification or exemption is not authorized unless supported by the facts.~~ The jury commissioner **administrator** shall enter this determination in the space provided on the juror qualification form or electronic data processing facsimile and on the alphabetical list of names drawn from the master list.

(b) A person may not be automatically excused under this chapter. Upon request of a prospective juror, the supervising judge or jury commissioner shall determine on the basis of information provided on:

- (1) the juror qualification form;
- (2) correspondence from the prospective juror; or
- (3) an interview with the prospective juror;

whether the prospective juror may be excused from jury service. The jury commissioner shall enter this determination in the space provided

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on the juror qualification form.

(c) A person who is not disqualified for jury service may be excused from jury service only in accordance with IC 33-28-4-8.

(d) Requests for excuse, other than those accompanying the return of the qualification form, must be made by the prospective juror in writing to the jury commissioner not later than three (3) days before the date when the prospective juror has been summoned to appear. **make a record of all disqualifications.**

(b) A prospective juror is disqualified to serve on a jury if any of the following conditions exist:

(1) The person is not a citizen of the United States, at least eighteen (18) years of age, and a resident of the county.

(2) The person is unable to read, speak, and understand the English language with a degree of proficiency sufficient to fill out satisfactorily a juror qualification form.

(3) The person is incapable of rendering satisfactory jury service due to physical or mental disability. However, a person claiming this disqualification may be required to submit a physician's or authorized Christian Science practitioner's certificate confirming the disability, and the certifying physician or practitioner is then subject to inquiry by the court at the court's discretion.

(4) A guardian has been appointed for the person under IC 29-3 because the person has a mental incapacity.

(5) The person has had the right to vote revoked by reason of a felony conviction and the right has not been restored.

(c) A person scheduled to appear for jury service has the right to defer the date of the person's initial appearance for jury service one (1) time upon a showing of hardship, extreme inconvenience, or necessity. The court shall grant a prospective juror's request for deferral if the following conditions are met:

(1) The prospective juror has not previously been granted a deferral.

(2) The prospective juror requests a deferral by contacting the jury administrator:

(A) by telephone;

(B) by electronic mail;

(C) in writing; or

(D) in person.

(3) The prospective juror selects another date on which the prospective juror will appear for jury service that is:

(A) not more than one (1) year after the date upon which

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the prospective juror was originally scheduled to appear;  
and

(B) a date when the court will be in session.

(4) The court determines that the prospective juror has demonstrated that a deferral is necessary due to:

(A) hardship;

(B) extreme inconvenience; or

(C) necessity.

(d) A person may not serve as a petit juror in any county if the person served as a petit juror in the same county within the previous three hundred sixty-five (365) days in a case that resulted in a verdict. The fact that a person's selection as a juror would violate this subsection is sufficient cause for challenge.

(e) A grand jury, a petit jury, or an individual juror drawn for service in one (1) court may serve in another court of the county, in accordance with orders entered on the record in each of the courts.

(f) The same petit jurors may be used in civil cases and in criminal cases.

(g) A person may not be excluded from jury service on account of race, color, religion, sex, national origin, or economic status.

(h) Notwithstanding IC 35-47-2, IC 35-47-2.5, or the restoration of the right to serve on a jury under this section and except as provided in subsections (i), (j), and (m), a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may not possess a firearm:

(1) after the person is no longer under a sentence imposed for an offense; or

(2) after the person has had the person's rights restored following a conviction.

(i) Not earlier than five (5) years after the date of conviction, a person who has been convicted of a crime of domestic violence (as defined in IC 35-41-1-6.3) may petition the court for restoration of the person's right to possess a firearm. In determining whether to restore the person's right to possess a firearm, the court shall consider the following factors:

(1) Whether the person has been subject to:

(A) a protective order;

(B) a no contact order;

(C) a workplace violence restraining order; or

(D) any other court order that prohibits the person from possessing a firearm.

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(2) Whether the person has successfully completed a substance abuse program, if applicable.

(3) Whether the person has successfully completed a parenting class, if applicable.

(4) Whether the person still presents a threat to the victim of the crime.

(5) Whether there is any other reason why the person should not possess a firearm, including whether the person failed to complete a specified condition under subsection (j) or whether the person has committed a subsequent offense.

(j) The court may condition the restoration of a person's right to possess a firearm upon the person's completion of specified conditions.

(k) If the court denies a petition for restoration of the right to possess a firearm, the person may not file a second or subsequent petition until one (1) year has elapsed.

(l) A person has not been convicted of a crime of domestic violence for purposes of subsection (i) if the conviction has been expunged or if the person has been pardoned.

(m) The right to possess a firearm shall be restored to a person whose conviction is reversed on appeal or on postconviction review at the earlier of the following:

(1) At the time the prosecuting attorney states on the record that the charges that gave rise to the conviction will not be refiled.

(2) Ninety (90) days after the final disposition of the appeal or the postconviction proceeding.

SECTION 15. IC 33-28-5-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 20. The same method described in section 15 of this chapter for drawing jury administrator shall randomly draw names from the master list must be followed for drawing names from the qualified jury wheel unless the names in the qualified jury wheel are not in some sequential order as described in section 15 of this chapter. The key number system is not necessary if the names are in the form of ballots or in some other form requiring them to jury pool as needed to establish jury panels for jury selection. Prospective jurors may not be blindly drawn from a container by hand, bystanders or from any source other than the jury pool.

SECTION 16. IC 33-28-5-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 21. (a) Not later than seven (7) days after a moving party discovers or by the exercise of

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diligence could have discovered grounds, but before a petit jury is sworn to try a case, a party may:

(1) in a civil case move to stay the proceedings; and

(2) in a criminal case move:

(A) to dismiss the indictment (if the case has been brought by indictment);

(B) to stay the proceedings; or

(C) for other appropriate relief;

on the ground of substantial failure to comply with this chapter in selecting the prospective grand or petit jurors.

(b) Upon a motion filed under subsection (a) containing a sworn statement of facts that, if true, would constitute a substantial failure to comply with this chapter, the moving party may present **evidence** in support of the motion.

~~(1) the testimony of the jury commissioner;~~

~~(2) relevant records and papers not public or otherwise available used by the jury commissioner; and~~

~~(3) other relevant evidence.~~

(c) If the court determines that in selecting either a grand jury or a petit jury there has been a substantial failure to comply with this chapter, the court:

(1) shall stay the proceedings pending the selection of the jury in conformity with this chapter; and

(2) may dismiss an indictment (if the case was brought by indictment) or grant other appropriate relief.

(d) The procedures required by this section are the exclusive means by which the state, a person accused of an offense, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter.

(e) The parties to the case may inspect, reproduce, and copy the records or papers of the jury ~~commissioner~~ **administrator** at all reasonable times during the preparation and pendency of a motion under subsection (a).

SECTION 17. IC 33-28-5-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 22. After the period of service for which names were drawn from the master jury list has expired, and all persons selected to serve as jurors have been discharged, all records and papers compiled and maintained by the jury ~~commissioner~~ **administrator** or the clerk must be preserved by the clerk of the courts for the period prescribed by rule of the supreme court. The records and papers must be available for public inspection at all reasonable times **and in accordance with this chapter and**

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1 **applicable supreme court rules.**

2 SECTION 18. IC 33-28-5-23, AS AMENDED BY P.L.80-2006,  
3 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
4 JULY 1, 2007]: Sec. 23. (a) A person who appears for service as a petit  
5 or grand juror serves until the conclusion of the first trial in which the  
6 juror is sworn, regardless of the length of the trial or the manner in  
7 which the trial is disposed. A person who appears for service but is not  
8 selected and sworn as a juror completes the person's service **at the end**  
9 **of one (1) day when jury selection is complete.**

10 (b) **Except by order of the supervising judge**, a person who:

11 (1) serves as a juror under this chapter; or

12 (2) **completes one (1) day of serves until jury selection is**  
13 **complete** but is not chosen to serve as a juror;

14 may not be selected for another jury panel until all nonexempt persons  
15 **on in the master list jury pool** have been called for jury duty.

16 (c) The employer of a person who:

17 (1) is summoned to serve as a juror; and

18 (2) notifies the employer of the jury summons:

19 (A) within a reasonable time after receiving the jury summons;

20 and

21 (B) before the person appears for jury duty;

22 may not subject the person to any adverse employment action as the  
23 result of the person's jury service.

24 (d) An employee may not be required or requested to use annual  
25 leave; vacation leave; or sick leave for time spent:

26 (1) responding to a summons for jury duty;

27 (2) participating in the jury selection process; or

28 (3) serving on a jury.

29 This subsection does not require an employer to provide annual leave;  
30 vacation leave; or sick leave to an employee who is not otherwise  
31 entitled to these benefits.

32 (e) If:

33 (1) a prospective juror works for an employer with ten (10) or  
34 fewer full-time employees (or their equivalent);

35 (2) another employee of the employer described in subdivision (1)  
36 is performing jury service; and

37 (3) the prospective juror or the person performing jury service  
38 notifies the court that they both work for the same employer;

39 the court shall reschedule the prospective juror's jury service for a date  
40 that does not overlap with the jury service of the other employee.

41 SECTION 19. IC 33-28-5-24 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24. A person

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summoned for jury service who fails to appear or complete jury service as directed ~~must be ordered by the court to immediately appear and show cause for the person's failure to comply with the summons. If the person fails to show good cause for noncompliance with the summons, the person is guilty of subject to~~ criminal contempt. ~~and upon conviction may be fined not more than one hundred dollars (\$100) or imprisoned in the county jail for not more than three (3) days; or both.~~

SECTION 20. IC 33-28-5-24.3, AS ADDED BY P.L.4-2006, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 24.3. (a) If a person:

(1) is summoned to serve as a juror; and

(2) notifies the person's employer of the jury summons within a reasonable period:

(A) after receiving the jury summons; and

(B) before the person appears for jury service;

the person's employer may not subject the person to any adverse employment action as the result of the person's jury service.

(b) An employee may not be required or requested to use annual **leave**, vacation **leave**, or sick leave for time spent:

(1) responding to a summons for jury service;

(2) participating in the jury selection process; or

(3) serving on a jury.

This subsection does not require an employer to provide annual **leave**, vacation **leave**, or sick leave to an employee who is not otherwise entitled to these benefits.

(c) If:

(1) a prospective juror works for an employer with not more than ten (10) full-time employees (or their equivalent);

(2) another employee of the employer described in subdivision (1) is performing jury service; and

(3) the prospective juror or the person performing jury service notifies the court that they both work for the same employer;

the court shall reschedule the prospective juror's jury service for a date that does not overlap with the jury service of the other employee.

SECTION 21. IC 33-29-1-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 8. ~~(a) The jury commissioners appointed by the judge of the circuit court of the county in which the standard superior court is located shall serve as the jury commissioners for the standard superior court.~~

~~(b)~~ (a) A jury in the standard superior court shall be selected in the

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1 same manner as a jury in the circuit court of the county in which the  
 2 standard superior court is located: **as provided in IC 33-28-5.**

3 ~~(c)~~ **(b)** A grand jury selected for the circuit court of the county in  
 4 which the standard superior court is located shall serve as the grand  
 5 jury for the standard superior court.

6 SECTION 22. IC 33-33-10-11 IS AMENDED TO READ AS  
 7 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. All laws governing  
 8 the circuit court in matters of pleading, practice, the issuing and service  
 9 of process, the giving of notice, the appointment of judges pro tempore  
 10 and special judges, changes of venue from the judge and from the  
 11 county, adjournments by the court and by the clerk in the absence of  
 12 the judge, and the selection of jurors for the court are applicable to and  
 13 govern the courts established under this chapter. ~~However, a superior~~  
 14 ~~court may not appoint jury commissioners or call the grand jury.~~

15 SECTION 23. IC 33-33-87-17 IS AMENDED TO READ AS  
 16 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 17. Whenever a trial by  
 17 jury is demanded, a judge of the superior court may call a jury from the  
 18 list provided ~~and used by to the circuit court~~, although the filing of a  
 19 small claim shall be considered a waiver of trial by jury by the plaintiff.  
 20 The defendant may, not later than ten (10) days after being served,  
 21 make demand for a trial by jury by affidavit stating that there are  
 22 questions of fact requiring a trial by jury, specifying them, and stating  
 23 that the demand is intended in good faith. The court shall then cause  
 24 the claim to be transferred to the regular docket and the defendant shall  
 25 pay the filing fee charged for filing civil actions in circuit court. Upon  
 26 transfer a claim loses its status as a small claim and is subject to all  
 27 ordinary rules and procedure.

28 SECTION 24. IC 33-37-10-1 IS AMENDED TO READ AS  
 29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A juror of a  
 30 circuit, superior, county, or probate court or a member of a grand jury  
 31 is entitled to the sum of the following:

32 (1) **Except as provided in subsection (f)**, an amount for mileage  
 33 at the mileage rate paid to state officers and employees for each  
 34 mile necessarily traveled to and from the court.

35 (2) Payment at the rate of:

36 (A) fifteen dollars (\$15) for each day the juror is in actual  
 37 attendance in court until the jury is impaneled; and

38 (B) forty dollars (\$40) for each day the juror is in actual  
 39 attendance after impaneling and until the jury is discharged.

40 (b) A county fiscal body may adopt an ordinance to pay from county  
 41 funds a supplemental fee in addition to the fees prescribed by  
 42 subsection (a)(2).

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(c) A juror of a city or town court is entitled to the sum of the following:

(1) **Except as provided in subsection (f)**, an amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Fifteen dollars (\$15) per day while the juror is in actual attendance.

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by subsection (c)(2).

(e) For purposes of this section, a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that day.

**(f) A county, city, or town fiscal body may adopt an ordinance providing for the payment by the county, city, or town of the parking fees incurred by jurors of circuit, superior, county, and probate courts and members of grand juries. If a county, city, or town fiscal body adopts an ordinance under this subsection, the county, city, or town may pay the parking fees incurred by a juror of a circuit, superior, county, or probate court or a member of a grand jury instead of paying the juror or grand jury member an amount for mileage at the rate provided in subsection (a)(1) or (c)(1).**

SECTION 25. IC 33-37-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

**(b) After all claims received by a county fiscal body during a month have been paid under subsection (a), the county fiscal body may appropriate any unused and unencumbered money remaining in the jury pay fund to maintain and improve the jury system in the county.**

SECTION 26. IC 34-35-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 2. Expenses to be paid under section 1 of this chapter include the following:

(1) The expense of keeping the prisoner, if any.

(2) The expense of transporting the prisoner to or from any penal institution.

(3) Any extraordinary expense for safekeeping the prisoner.

(4) The fee set by the venue court under IC 33-40-2-5 for pauper

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counsel, if counsel was appointed by that court.

(5) The expense of any mileage, meals, lodging, and per diems paid for or to jurors.

(6) The per diems paid jury ~~commissioners~~ **administrators** for drawing any special venire.

(7) The sum of five dollars (\$5) for each day or part of a day a bailiff is engaged in assisting the court in the trial of the cause.

(8) The sum of eight dollars (\$8) for each day or part of a day an official court reporter takes evidence or testimony before the judge or jury concerning the cause.

(9) The sum of ten dollars (\$10) per day for each day of trial for use of facilities and utilities.

(10) The sum of five dollars (\$5) for notifying the jury not to attend court after having been summoned in any cause.

(11) The amount of telephone or telegraph communications made by the court or authorized by it.

(12) The per diem allowed by law to the clerk of the court for attending court.

SECTION 27. IC 35-34-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. (a) The jurors on a grand jury and one (1) alternate shall be drawn, selected, and impaneled by the procedure set out in ~~IC 33-28-4 or IC 33-28-6.~~ **IC 33-28-5.**

(b) Whenever the court finds that the original panel was not selected in substantial conformity with the requirements of law for the selection of the panel, the court shall discharge the panel and summon another panel.

(c) Whenever the court finds that a grand juror:

(1) is disqualified from service under law;

(2) is incapable of performing the juror's duties because of bias or prejudice;

(3) is guilty of misconduct in the performance of the juror's duties that might impair the proper functioning of the grand jury;

(4) is under the age of eighteen (18) years;

(5) is not a resident of the county;

(6) is an alien;

(7) is a mentally incompetent person;

(8) is a witness for the prosecution;

(9) has such a state of mind in reference to a target that the juror cannot act impartially and without prejudice to the substantial rights of that person;

(10) holds a juror's place on the grand jury by reason of the

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1 corruption of the officer who selected and impaneled the grand  
2 jury; or

3 (11) has requested or otherwise caused any officer or an officer's  
4 deputy to place the juror upon the grand jury;

5 the court shall refuse to swear that grand juror or, if the juror has been  
6 sworn, shall discharge that grand juror and swear another grand juror.

7 (d) After a grand jury has been impaneled, the court that called the  
8 grand jury shall appoint one (1) of the grand jurors as foreman and one  
9 (1) as clerk. During any absence of the foreman or clerk, the grand jury  
10 shall select one (1) of their number to act as foreman or clerk. The clerk  
11 shall keep minutes of the grand jury proceedings. The court shall  
12 supply a means for recording the evidence presented before the grand  
13 jury and all of the other proceedings that occur before the grand jury,  
14 except for the deliberations and voting of the grand jury and other  
15 discussions when the members of the grand jury are the only persons  
16 present in the grand jury room. The evidence and proceedings shall be  
17 recorded in the same manner as evidence and proceedings are recorded  
18 in the court that impaneled the grand jury. When ordered by the court,  
19 a transcript or a copy of the recording shall be prepared and supplied  
20 to the requesting party. If the transcript is supplied, it shall be at the  
21 cost of the party requesting it. If a copy of the recording is supplied, the  
22 party requesting it is responsible for the actual cost of reproduction. If  
23 a transcript has already been prepared, the requesting party is  
24 responsible for the actual cost of obtaining the copy. If the court finds  
25 the requesting party is an indigent defendant, the cost of the transcript  
26 or copy of the recording supplied to the defendant shall be paid by the  
27 county.

28 (e) The following oath must be administered to the grand jury:

29 "You, and each of you, do solemnly swear or affirm that you will  
30 diligently inquire and make true presentment of all offenses  
31 committed or triable within this county, of which you have or can  
32 obtain legal evidence; that you will present no person through  
33 malice, hatred, ill will, nor leave any unpresented through fear,  
34 favor, or affection, or for any reward, or the promise or hope  
35 thereof, but in all your indictments you will present the truth, the  
36 whole truth, and nothing but the truth; that you will not disclose  
37 any evidence given or proceeding had before the grand jury; that  
38 you will keep secret whatever you or any other grand juror may  
39 have said or in what manner you or any other grand juror may  
40 have voted on a matter before the grand jury."

41 (f) The court shall provide a printed copy of the provisions of this  
42 chapter to the grand jury upon the request of any member of the grand

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1 jury. In addition, the court shall give the grand jurors any instructions  
2 relating to the proper performance of their duties that the court  
3 considers necessary.

4 (g) If a member of the grand jury has reason to believe that an  
5 offense has been committed which is triable in the county, the member  
6 may report this information to fellow jurors, who may then investigate  
7 the alleged offense.

8 SECTION 28. IC 35-34-2-14 IS AMENDED TO READ AS  
9 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 14. (a) The judge of  
10 any court having criminal jurisdiction may, upon due cause shown by  
11 petition of the prosecuting attorney of the judicial circuit, order the  
12 clerk of the courts, or jury ~~commissioner~~ **administrator** (as defined in  
13 ~~IC 33-28-6-4~~) **IC 33-28-5-3**) to draw the names of competent persons  
14 to be summoned to serve on a special grand jury, which shall serve in  
15 addition to the grand jury regularly summoned and convened pursuant  
16 to law.

17 (b) A special grand jury has the powers and duties of a grand jury  
18 prescribed by law.

19 (c) The members of the special grand jury serve terms of three (3)  
20 months or more, as requested by the prosecuting attorney. The terms of  
21 members of a special grand jury shall be extended for the same period  
22 of time and in the same manner in which the terms of grand jury  
23 members may be extended under section 13 of this chapter.

24 SECTION 29. IC 35-34-2-15 IS AMENDED TO READ AS  
25 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 15. When names of  
26 grand jurors are ordered drawn to be summoned under section 14 of  
27 this chapter, the judge shall specify the number of names to be drawn,  
28 and shall enter an order in sufficient time before the grand jury session  
29 to permit counsel to know and investigate the panel of special grand  
30 jurors. The order of names listed in the panel and called for service and  
31 entered in the order book of the court shall be the same as that provided  
32 in ~~IC 33-28-4-9~~ or ~~IC 33-28-6~~, as may be applicable. **IC 33-28-5**. The  
33 clerk shall issue ~~venires~~ or summonses for such jurors as the courts  
34 may direct. The sheriff or bailiff shall then call the special grand jurors  
35 to the jury box in the same order as that in which their names were  
36 drawn from the ~~box~~ **jury pool** and certified thereto.

37 SECTION 30. IC 35-36-6-11 IS AMENDED TO READ AS  
38 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 11. (a) In any criminal  
39 proceeding wherein the defendant is charged with murder or a Class A  
40 felony to be tried before a jury in which a motion for a change of venue  
41 from the county is filed, the court may recognize but decline to grant  
42 the motion, and order that the jury be drawn from the residents of a

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1 county other than the county in which the court is located.

2 (b) Pursuant to an order under this section, the court may convene  
3 in any county in the state for purposes of jury selection. The venire may  
4 be drawn by the jury ~~commissioners~~ **administrator** of a court in the  
5 jurors' home county, or may be drawn by the court itself by random  
6 selection.

7 (c) After a jury is selected, the trial shall be held in the county of the  
8 court's location. The verdict of the jury and the judgment based upon  
9 it have the same validity and effect as if the jury had been drawn from  
10 the county of the court's location.

11 SECTION 31. IC 35-41-1-6.3, AS AMENDED BY P.L.121-2006,  
12 SECTION 29, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
13 JULY 1, 2007]: Sec. 6.3. "Crime of domestic violence," for purposes  
14 of IC 3-7-13-5, IC 5-2-6.1, and ~~IC 33-28-4-8~~, **IC 33-28-5-18**, means an  
15 offense or the attempt to commit an offense that:

16 (1) has as an element the:

17 (A) use of physical force; or

18 (B) threatened use of a deadly weapon; and

19 (2) is committed against a:

20 (A) current or former spouse, parent, or guardian of the  
21 defendant;

22 (B) person with whom the defendant shared a child in  
23 common;

24 (C) person who was cohabiting with or had cohabited with the  
25 defendant as a spouse, parent, or guardian; or

26 (D) person who was or had been similarly situated to a spouse,  
27 parent, or guardian of the defendant.

28 SECTION 32. IC 35-47-2-1 IS AMENDED TO READ AS  
29 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) Except as  
30 provided in subsection (b) and section 2 of this chapter, a person shall  
31 not carry a handgun in any vehicle or on or about the person's body,  
32 except in the person's dwelling, on the person's property or fixed place  
33 of business, without a license issued under this chapter being in the  
34 person's possession.

35 (b) Unless the person's right to possess a firearm has been restored  
36 under IC 3-7-13-5 or ~~IC 33-28-4-8~~, **IC 33-28-5-18**, a person who has  
37 been convicted of domestic battery under IC 35-42-2-1.3 may not  
38 possess or carry a handgun in any vehicle or on or about the person's  
39 body in the person's dwelling or on the person's property or fixed place  
40 of business.

41 SECTION 33. IC 35-47-4-6 IS AMENDED TO READ AS  
42 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 6. (a) A person who has

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1 been convicted of domestic battery under IC 35-42-2-1.3 and who  
 2 knowingly or intentionally possesses a firearm commits unlawful  
 3 possession of a firearm by a domestic batterer, a Class A misdemeanor.

4 (b) It is a defense to a prosecution under this section that the  
 5 person's right to possess a firearm has been restored under IC 3-7-13-5  
 6 or ~~IC 33-28-4-8~~. **IC 33-28-5-18.**

7 SECTION 34. THE FOLLOWING ARE REPEALED [EFFECTIVE  
 8 JULY 1, 2007]: IC 33-28-4; IC 33-28-5-4; IC 33-28-5-6;  
 9 IC 33-28-5-11; IC 33-28-5-15; IC 33-28-5-19; IC 33-28-6;  
 10 IC 33-33-2-23; IC 33-33-6-6; IC 33-33-10-14; IC 33-33-27-7;  
 11 IC 33-33-27.2-8; IC 33-33-27.2-9; IC 33-33-27.3-9; IC 33-33-29-5;  
 12 IC 33-33-30-8; IC 33-33-32-7; IC 33-33-43-5; IC 33-33-45-45;  
 13 IC 33-33-47-7; IC 33-33-49-21; IC 33-33-58-10; IC 33-33-71-4;  
 14 IC 33-33-71-19; IC 33-33-78-10; IC 33-33-79.3-11; IC 33-33-79.4-10;  
 15 IC 33-33-82-21; IC 33-33-84-16; IC 33-33-89.2-9; IC 33-33-89.2-10;  
 16 IC 33-33-89.3-9; IC 34-36-3-7; IC 34-36-4-1; IC 35-37-1-7.

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## COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1287, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 14, between lines 27 and 28, begin a new paragraph and insert:

"SECTION 24. IC 33-37-10-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A juror of a circuit, superior, county, or probate court or a member of a grand jury is entitled to the sum of the following:

(1) **Except as provided in subsection (f)**, an amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Payment at the rate of:

(A) fifteen dollars (\$15) for each day the juror is in actual attendance in court until the jury is impaneled; and

(B) forty dollars (\$40) for each day the juror is in actual attendance after impaneling and until the jury is discharged.

(b) A county fiscal body may adopt an ordinance to pay from county funds a supplemental fee in addition to the fees prescribed by subsection (a)(2).

(c) A juror of a city or town court is entitled to the sum of the following:

(1) **Except as provided in subsection (f)**, an amount for mileage at the mileage rate paid to state officers and employees for each mile necessarily traveled to and from the court.

(2) Fifteen dollars (\$15) per day while the juror is in actual attendance.

(d) A city or town fiscal body may adopt an ordinance to pay from city or town funds a supplemental fee in addition to the fee prescribed by subsection (c)(2).

(e) For purposes of this section, a prospective juror who is summoned for jury duty and who reports to the summoning court on the day specified in the summons is in actual attendance on that day.

**(f) A county, city, or town fiscal body may adopt an ordinance providing for the payment by the county, city, or town of the parking fees incurred by jurors of circuit, superior, county, and probate courts and members of grand juries. If a county, city, or town fiscal body adopts an ordinance under this subsection, the county, city, or town may pay the parking fees incurred by a juror of a circuit, superior, county, or probate court or a member of a grand jury instead of paying the juror or grand jury member an**

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**amount for mileage at the rate provided in subsection (a)(1) or (c)(1).**

SECTION 25. IC 33-37-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 3. **(a)** Upon receipt of monthly claims submitted on oath to the county fiscal body by a clerk serving the county, the county fiscal body shall appropriate from the jury pay fund to the court served by the clerk an amount to supplement the cost of jury fees.

**(b) After all claims received by a county fiscal body during a month have been paid under subsection (a), the county fiscal body may appropriate any unused and unencumbered money remaining in the jury pay fund to maintain and improve the jury system in the county."**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

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